HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No.18253 of 2005

Date: 3rd January, 2006

Between:

1. Boya Bikshapathy S/o.B.Ramaiah,

R/o.2-56/33/20/6, Plot No.79, Ayyappa Society,

Madhapur, R.R.District and another.

…..Petitioners

and

1. The State of Andhra Pradesh, represented by

the District Collector, Ranga Reddy District

and others.

…..Respondents

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ORDER:

The petitioners, who are two in number, challenged the Notification No.G1/114/2005, dated 26.02.2005, issued by the District Collector, Ranga Reddy District-1st respondent under Section 4(1) of the Land Acquisition Act, 1894 as amended by Act XXXVIII of 1923 (for short, 'the Act') proposing to acquire the land in an extent of Ac.0.25 guntas comprising Survey Nos.18 and 19 of Madhapur Revenue village for laying and construction of the proposed link road connecting Madhapur Hitech City to western side of Durgamma Cheruvu (Near COD), in this writ petition.

2. The petitioners 1 and 2 are brothers and they are owners and possessors of Ac.2.23 guntas comprising Survey Nos.18 and 19 of Madhapur village. The principal ground on which challenge has been made to the proposed acquisition is that the proposed link road is laid to provide another approach road on the western side of the land belonging to M/s.Sudershana Rao and others, who are said to have alienated the lands in favour of one Pratap Reddy. It is relevant to refer paras.6 and 7 of the writ affidavit to know the grievance of the petitioners and they are:

> "6.The petitioner respectfully submits that the impugned Notification has been issued under Section 4(1) of the Land Acquisition Act to accommodate such a special situation. The notified land is at a distance of 500 Metres from Hitech City to Jubilee Hills main road (Road No.36). The notified land is surrounded on western side by the lands covered by Sy.Nos.20, 21, 22, 23, 24 and 25. These lands though are standing in the name of M/s.Sudershana Rao etc., on the basis of reliable information the petitioners have, it is submitted that these lands have been alienated in favour of Sri Pratap Reddy for purpose of developing the land belonging to Sudershana Rao and others into a lay out area. The said land of M/s.Sudershana Rao and others has approach road on the northern side of his land. With a view to provide another opening/approach road on eastern side of the land belonging to them the respondents have under the garb of providing approach road to western side of Durgamma Cheruvu issued the Notification impugned in this Writ Petition.
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> 7. I submit that the 1st and 2nd respondents have exercised the power under Section 4(1) of the Land Acquisition Act for achieving a purpose behind which neither public nor public interest or any other obligation to undertake any development under A.P. Urban Areas Development Act is available. The 1st respondent, it is manifestly obvious, has not been informed by the other respondents as to the existence or otherwise of as many as four roads to reach the Durgam Cheruvu area. There are approved layouts on the southern side of the notified lands. The proposed formation of road through the impugned Notification is hardly at a distance of 136 ft. from the existing road. The petitioners have long ago taken steps for developing the petition land into a lay-out/plots, the petition land is eligible for regularization under Urban Land Ceiling Act. They have through their vendors paid several lakhs of rupees to the Government of A.P. for regularization under G.O.Ms.No.458. The petitioners are providing approach road to Durgam Cheruvu. On eastern side of their land and if a road as proposed through the impugned Notification is laid the petitioners would have provided for roads to an extent of 2,200 sq. yds. After providing for such roads the land at the disposal of petitioners would be hardly Ac.1.05 guntas. There is already a notified 60' road through Sy.Nos.3, 5, 6, 18 and 48 which join Durgamma

Cheruvu area. The approach roads for Durgam Cheruvu are as follows:

a. From Madhapur Police Junction

b. From Wipro Building from Cyber Towers O.U.E.

c. From Varun Motors."

3. 3rd respondent filed counter-affidavit. It is stated in the counter-affidavit that Hyderabad Urban Development Authority (H.U.D.A.) has decided for formation of link road from Madhapur Hitech city (COD) to western side of Durgam Cheruvu. The draft notification proposal was sent to the Collector, Ranga Reddy District-1st respondent and the same was approved and published in Andhra Pradesh Gazette, R.R.No.54, dated 28.02.2005 and in two daily newspapers, one in English i.e. *Deccan Chronicle* dated 02.03.2005 and one in Telugu i.e. *Vaartha* dated 02.03.2005, and publication in the locality on 01.03.2005. Section 5-A enquiry is ordered to be conducted and notices have been served on the parties concerned on 23.05.2005. The 2nd petitioner, who is one of the pattadar of the said survey numbers has attended 5-A enquiry on 27.05.2005 and sought for time upto 04.06.2005. The 1st petitioner has attended the 5-A enquiry on 04.06.2005 and sought for further time for filing objections. The petitioners without availing opportunity of submitting their objections during 5-A enquiry have resorted to approach this Court by invoking extraordinary jurisdiction under Article 226 of the Constitution of India. It is further stated in the counter-affidavit that the proposed link road is having length of 430 metres only and there is already existing road from western side of Durgam Cheruvu upto the land of the petitioners and from that point, the link road is being provided connecting Madhapur Hitech city road near Cyberabad Development Authority. It is relevant to refer para.9 of the counter-affidavit and it is thus:

> "9. In reply to para.8, it is not correct to state that the proposal of formation of road is drawn up to provide frontage to the neighbour's land on western side by substantially denying to the petitioners, their land. It is submitted that road proposed is based on technical specifications given by the Engineers of HUDA on conducting survey. Therefore, it cannot be said that the said road is being formed to provide frontage to the neighbours. Similarly the contention of the petitioners that proposed road is not straight one and it has an angle, which serves the undisclosed purpose, is incorrect. It is submitted that while conducting survey to provide link road from Madhapur Hitech city road to the western side of Durgam Cheruvu at starting point

from Hitech city road, there are existing structures and in order to avoid demolition of such structures, the road was designed and ultimately connected to the existing road after the petitioners' land. Thus, the angle in the said road is not intentional, but as per the technical specifications suggested by the Engineers concerned. The petitioners even without verifying the facts made unnecessary statements, which are baseless and are liable to be rejected. Similarly the contention of the petitioners that the impugned Notification is not published in two daily newspapers as required and the substance of the land acquisition notification is not published in the locality is equally incorrect and this itself shows that how the petitioners have filed the writ petition without verifying the facts. The details of publication of 4(1) Notification as well as substance of land acquisition notification has already been mentioned in para.2 of the counter-affidavit. Accordingly, the said contention is specifically denied."

4. Heard learned counsel appearing for the petitioners and learned Sanding Counsel appearing for the 3rd respondent.

5. Learned Counsel appearing for the petitioners submits that there are as many as four roads to reach Durgam Cheruvu from Hitech city to Jubilee Hills main road and therefore, there is no need to have another link road and thus, the purpose stated in 4(1) Notification cannot be treated as public purpose. He further submits that the entire exercise of laying road on the land of the petitioners is only to benefit a neighbouring land owner viz. Pratap Reddy to provide another opening or approach road on the eastern side. He refers the rough sketch filed along with the writ petition to show that there are already existing link roads from Durgam Cheruvu to Hitech city Jubilee Hills main road.

6. Learned Standing Counsel appearing for the 3rd respondent submits that the road is laid as per the master plan. He further submits that there is existing road upto the land of the petitioners from Durgam Cheruvu and what is now proposed is for the extension of that road to the Durgam Cheruvu to Jubilee Hills main road. He refers the master plan as well as the plan showing the proposed link road 18.0 metres wide connecting Madhapur Hitech City road (near COD) and western side road of Durgam Cheruvu.

7. The purpose for which the lands proposed to be acquired is for laying link road, connecting Madhapur Hitech city road (near COD) and western side road of Durgam Cheruvu. It has been held by the Supreme Court in ***Pratibha Neema and others v. State of M.P. and others*** that it must be borne in mind that the satisfaction of the Government as to the existence of public purpose cannot be lightly faulted and it must remain uppermost in the mind of the Court. The principal contention on which the petitioners challenged the Notification issued under Section 4(1) of the Act in respect of their land is that the link road is being laid so as to provide another opening or approach road on the eastern side of the land belonging to one Pratap Reddy. Undisputedly, Section 5-A Enquiry is being conducted and indeed the petitioners have appeared before the Land Acquisition Officer and sought for time for filing objections.

8. In that view of the matter, I deem it appropriate to dispose of the writ petition giving liberty to the petitioners to file their objections within 15 days from today and thereupon the Land Acquisition Officer, H.U.D.A., Hyderabad-2nd respondent shall proceed further in accordance with the provisions of the Act.

9. Accordingly, the writ petition is disposed of. No costs.

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B.SESHASAYANA REDDY, J.

Date: 3rd January, 2006.

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